

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL STANLEY KAPLAN, M.D.,

Defendant.

2:13-cr-00377-PMP-CWH

**AMENDED ORDER**

On September 24, 2014, a jury found Defendant Dr. Michael Stanley Kaplan guilty of Conspiracy to Commit Adulteration with Intent to Defraud or Mislead (Count One). Now before the Court is Defendant's Motion in Arrest of Judgment With Respect to Count One of the Indictment for Failure to Invoke the Jurisdiction of the Court (Doc. #146). Defendant's motion is repetitive of the Pretrial Motion to Dismiss Count One for Failure to State a Federal Offense or Invoke the Jurisdiction of the Court (Doc. #25), which the Court denied in its Order issued September 5, 2014 (Doc. #76). For the reasons set forth in the Court's prior Order (Doc. #76), the Court finds Defendant Kaplan's instant motion also should be denied.

Arguing that "the Food and Drug Administration does not regulate the practice of medicine," Defendant capsulizes his argument as follows:

Here there can be no dispute that the challenged reuse of biopsy needle guides was in fact done pursuant to and within the course of the practice of medicine by Dr. Kaplan. This Court therefore lacks jurisdiction; and accordingly, arrest of judgment should be granted.

(Doc. #146 at p.4, ln. 24-27.)

DATED: December 2, 2014.

PHILIP M. PRO  
United States District Judge